

Summary of SC94154, *State of Missouri v. Claude Dale Brooks*

Appeal from the St. Charles County circuit court, Judge Jon A. Cunningham
Argued and submitted October 1, 2014; opinion issued November 12, 2014

Attorneys: Brooks was represented by Samuel Buffaloe of the public defender's office in Columbia, (573) 882-9855; and the state was represented by Robert J. (Jeff) Bartholomew of the attorney general's office in Jefferson City, (573) 751-3321.

This summary is not part of the opinion of the Court. It has been prepared by the communications counsel for the convenience of the reader. It neither has been reviewed nor approved by the Supreme Court and should not be quoted or cited.

Overview: A man appeals his conviction for second-degree robbery of a bank. In a unanimous decision written by Judge Zel M. Fischer, the Supreme Court of Missouri affirms the judgment. There was sufficient evidence in the record that the man's actions constituted a threat of immediate physical force to the bank teller for the purpose of both defeating resistance to the theft of the bank's money and compelling surrender of the money.

Facts: Claude Dale Brooks entered a St. Charles County bank in August 2011 wearing bulky clothing, a wig, a baseball cap and sunglasses. He handed the teller a note that read "50 & 100's, No Bait Bills, Bottom Drawer." When the teller walked away from her station to retrieve the money, Brooks slammed his hand on the counter, telling her to "get back here." The teller put the money in a bag she gave Brooks. Police arrested Brooks nearby with the bag of stolen money on his person and the wig and cap in a storm drain not far away. The state charged Brooks with second-degree robbery, and he was tried by a judge rather than a jury. At the close of the state's evidence, Brooks moved for a judgment of acquittal, arguing the state did not present sufficient evidence that he used or threatened the use of immediate physical force against the teller. The trial court overruled his motion, found him guilty and sentenced him to prison. Brooks appeals.

AFFIRMED.

Court en banc holds: Section 569.030, RSMo, provides that a person commits second-degree robbery when he "forcibly steals" property. Section 539.010(1), RSMo, defines "forcibly steals" as when, in the course of stealing, a person uses or threatens the immediate use of physical force against another person for the purpose of defeating resistance to the theft or compelling the surrender of the property. Use of a weapon is not necessary to sustain a second-degree robbery conviction. There was sufficient evidence in the record that Brooks' actions constituted a threat of immediate physical force for the purpose of both defeating resistance to the theft of the bank's money and compelling its surrender. His disguise and note indicated his clear purpose was to steal money. He slammed his hand on the counter when the teller walked away and watched her movements as she retrieved the money. Other tellers were fearful for their safety, as was the teller Brooks approached. A reasonable inference drawn from Brooks' actions was the threat of immediate physical force to the teller should she not comply with his demands.